



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-L

SEP 13 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND VIA FACSIMILE

Leon Bear, Chairman
Skull Valley Band of Goshute Indians
3359 S. Main Street #808
Salt Lake City, UT 84115

Lori Skiby, Vice Chairwoman
Skull Valley Band of Goshute Indians
Tribal Environmental Protection Office
3359 South Main Street, #808
Salt Lake City, Utah 84115

RE: Emergency Administrative
Order under section 1431 of the SDWA
Docket No. SDWA-08-2005-0057
Skull Valley, PWS ID #084990008C

Dear Chairman Bear and Vice Chairwoman Skiby:

Enclosed is an Emergency Administrative Order ("Order") issued under section 1431 of the Safe Drinking Water Act ("Act"), 40 U.S.C. § 300i. In its current state, the water supplied by the Skull Valley Band of Goshute Indians ("Skull Valley") public water system ("System") may present an imminent and substantial endangerment to the human health. The Order is based the following factors: (1) a fecal coliform-positive water sample Skull Valley took at the Pony Express Station on September 6, 2005; (2) total coliform-positive special purpose water samples Skull Valley took at the Pony Express Station on August 30 and 31, 2005; and (3) a total coliform-positive water sample EPA took at the Pony Express Station on August 22, 2005.

The enclosed Order sets forth the actions that Skull Valley must immediately take to ensure that the people served by the water supply are provided with safe drinking water. Penalties for failing to comply are set forth in the Order. The Order requires that the Skull Valley conduct the following activities: (1) Within 24 hours, provide an intent to comply with the

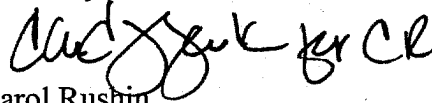


Order; (2) provide an alternative potable water supply; (3) submit a detailed plan to EPA for bringing Respondent's public water system into compliance and hire a licensed professional engineer to implement the plan upon EPA approval; (4) conduct increased monitoring for total coliform bacteria; and (5) provide public notice within 24 hours.

EPA is committed to working with you to ensure the safety of Skull Valley's public water system. As part of this effort, EPA or its representatives may at reasonable times inspect the Skull Valley System, including, but not limited to, inspection of records, files, papers, processes, controls and facilities and for sampling. EPA has the legal authority and responsibility to conduct inspections in Indian country as part of our direct implementation of federal environmental programs. [Section 1445(b) of the Act, 42 U.S.C. § 300j-4(b)]. If your staff has questions specific to the elements of the Order, the most knowledgeable people regarding these issues are Lisa Kahn, Environmental Protection Specialist, who can be reached at (800) 227-8917 x 6896, or Elyana Sutin, Enforcement Attorney, who can be reached at (800) 227-8917 X 6689.

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Rushin", with a stylized flourish at the end.

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2005 SEP 13 PM 4:16

IN THE MATTER OF)

Skull Valley Band of Goshute
Indians)

2480 South Main Street, Suite 110)
Salt Lake City, Utah 84115)

Skull Valley Water System)
PWS ID #: 08-4990008)

Respondent)

Proceedings under Section 1431(a))
of the Safe Drinking Water Act,)
42 U.S.C. § 300i(a))

FILED
EPA REGION VIII
HEARING CLERK

EMERGENCY
ADMINISTRATIVE ORDER

Docket No. SDWA-08-2005-0057

I. STATUTORY AUTHORITY

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1431 of the Safe Drinking Water Act (the "Act"), 42 U.S.C. § 300i, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

II. JURISDICTION

1. EPA has jurisdiction to issue emergency orders pursuant to the emergency powers provision of the Act, Section 1431 of the Act, 42 U.S.C. § 300i.
2. EPA has primary enforcement responsibility for the Act at the Skull Valley Band of Goshute Indians. No other authority has applied for and been approved to administer the program on the Reservation.

III. FINDINGS

1. The Skull Valley Band of Goshute Indians ("Respondent"), is a federally-recognized Tribe and, therefore, a "person," for purposes of federal enforcement, within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates the Skull Valley Water System located on the Skull Valley Band of Goshute Indian Reservation in Utah for the provision to the public of piped water for human consumption.
3. Respondent's water system serves an average of at least 25 individuals daily at least 60 days a year and is, therefore, a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is, therefore, a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to a June 3, 2004 sanitary survey by EPA's agent, Respondent operates a system that is supplied by untreated water from the East Well to a 20,000 gallon

water storage tank, then into the distribution system of the Skull Valley Community, consisting of 7 service connections serving approximately 30 persons per day. The Pony Express Store, which services an unknown transient population, is included in the service connections, and therefore, meets the definition of public water system as defined at 40 C.F.R. § 141.2.

6. EPA determined that a contaminant present in the System may present an imminent and substantial endangerment to the health of persons based on the following factors: (1) a fecal coliform-positive water sample Respondent took at the Pony Express Station on September 6, 2005; (2) total coliform-positive special purpose water samples Respondent took at the Pony Express Station on August 30 and 31, 2005; (3) a total coliform-positive water sample EPA took at the Pony Express Station on August 22, 2005; (4) previous history of *E. coli*, total and fecal coliform-positive sampling results at the System; and (5) previous history of chronic operational problems, including, but not limited to, loss of pressure at the System.
7. Fecal coliform and *E. Coli* are bacteria whose presence indicate that the water may be contaminated with human or animal waste. Microbes in this waste can cause diarrhea, cramps, nausea, headaches, or other symptoms. These bacteria can pose a special health risk to infants, young children, and people with severely compromised immune systems.
8. This Order and the requirements set forth herein are necessary to ensure adequate

protection of public health based on EPA's enforcement responsibility for the Act in Indian country.

9. Prior to issuing this Order, EPA consulted with Tribal (local) authorities to confirm the information on which this Order is based and to ascertain the actions which such authorities are taking.
10. The State of Utah has not acted to protect public health because it does not have authority to do so under the Act.
11. Local authorities have not acted to protect public health.
12. The Tribal government has not acted to protect public health.

IV. EMERGENCY ADMINISTRATIVE ORDER

Based on the foregoing Findings, and pursuant to section 1431 of the Act, IT IS ORDERED:

A. INTENT TO COMPLY

1. Within 24 hours of receipt of this Order, Respondent shall notify EPA in writing of its intention to comply with the terms of this Order.

B. ALTERNATIVE WATER SUPPLY

1. Upon the effective date of this Order, Respondent shall notify all water users of the System that an alternative potable water supply or water that has been boiled for at least one minute is available. The alternative water supply shall be from a licensed water distributor and shall be made available to the consumers of the System at no cost as needed for drinking

and food preparation until Respondent receives notification from EPA that alternative water is no longer necessary. Respondent shall provide the alternative potable water supply at a central location that is accessible to all persons served by the System.

2. Respondent shall provide a sufficient quantity of water for reasonable domestic uses, at a minimum, two liters daily, for each customer of the public water system.
3. Within 24 hours of receipt of this Order, Respondent shall submit certification to EPA of compliance with the paragraphs above.

C. COMPLIANCE MEASURES

1. Respondent shall comply with the maximum contaminant level ("MCL") for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Within 30 days of this Order, Respondent shall submit a detailed plan to EPA for bringing Respondent's public water system into compliance and avoiding E. coli and total and fecal coliform-positive samples.

Respondent shall hire a licensed professional engineer to address the following items. The professional engineer and the Plan must be approved by EPA prior to the commencement of any work. The proposed plan shall be certified by the professional engineer. Respondent's plan, shall include and address, at a minimum, the following items :

- a. Respondent shall investigate and identify the cause of total and

fecal coliform-positive contamination in the System;

b. Respondent shall evaluate the System to determine if the Pony Express Store is connected to the distribution system. If the evaluation determines that the Pony Express Store is on a separate distribution system than the rest of the Skull Valley Water System, the plan shall include the modification needed to connect the Pony Express Store to the System.

c. Describe efforts the Respondent will take to prevent recurrence of total and fecal coliform-positive contamination in the system and how Respondent will respond to this type of contamination in the future;

d. Proposed system modifications, including, but not limited to, addressing the Deficiencies/Recommendations identified in EPA's Sanitary Survey and alleviating and addressing the cause of the total and fecal coliform-positive contamination in the System;

e. Estimated costs of modifications; and

f. If construction is necessary, a schedule for construction of the project. The schedule shall include specific milestone dates and a final compliance date.

3. The schedule for construction and completion of modifications will be incorporated into this Order upon written approval by EPA.

4. Within 30 days after EPA approves Respondent's plan, Respondent shall submit to EPA monthly reports on the progress toward completion of the selected remedy. Progress reports shall be submitted to the EPA contact indicated below and each month postmarked no later than the 15th of each month.
5. Respondent shall complete improvements to its system no later than six (6) months after EPA approves the plan referenced above and shall notify EPA when modifications have been completed.

D. MONITORING REQUIREMENTS

1. Upon the effective date of this Order, Respondent shall take daily total coliform samples to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63, until EPA notifies Respondent to discontinue daily sampling. These samples shall alternate daily between the Pony Express Store and the remainder of the service connections throughout the distribution system. Respondent shall report daily total coliform sampling results, via telephone or telefax, to EPA immediately upon receiving the results.
2. After Respondent collects four consecutive daily total coliform samples that are total coliform-negative and receives notification from EPA to discontinue daily total coliform sampling, Respondent shall conduct

weekly bacteriological sampling to determine compliance with the MCLs for total coliform bacteria as stated in 40 C.F.R. § 141.63. These samples shall alternate weekly between the Pony Express Store and the remainder of the service connections throughout the distribution system. Respondent shall report weekly total coliform sampling results to EPA, via telephone or telefax, immediately upon receiving the laboratory results.

3. Following four consecutive total coliform-negative weekly bacteriological results, EPA will notify Respondent that weekly bacteriological sampling is no longer required.
4. Thereafter, Respondent shall comply with all bacteriological monitoring requirements for community water systems found at 40 C.F.R. § 141.21 to determine compliance with the MCLs as stated in 40 C.F.R. § 141.63.
5. If Respondent is chlorinating the System, Respondent shall maintain a detectable chlorine residual in the distribution system no greater than 4.0 mg/L throughout the distribution system and shall monitor and record the chlorine residual in the distribution system daily. Respondent shall notify EPA within two hours if the chlorine residual is non-detectable at any point in the System. Respondent shall send the chlorine residual results to EPA monthly.
6. If Respondent elects to add a chemical disinfectant to the water in any part of the drinking water treatment process in the System, Respondent shall

comply with the Disinfectant Residuals, Disinfection Byproducts and Disinfection Byproduct Precursors Rule (40 C.F.R. part 141 subpart L).

7. If Respondent chlorinates the system, Respondent shall monitor and record chlorine residual daily at least at the same time and locations as bacteriological monitoring is conducted, including where bacteriological samples have been fecal coliform positive, and submit its results monthly to EPA.
8. Upon the effective date of this Order, Respondent shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample shall be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within 5 service connections upstream or downstream of the original total coliform positive tap.
9. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If

Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public.

10. Respondent shall report all bacteriological analytical results to EPA within 10 days of the end of each monitoring period, as required by 40 C.F.R. § 141.31(a), or sooner if specified above.

E. PUBLIC NOTICE

1. No later than 24 hours after receipt of this Order, Respondent shall provide public notice of the situation specified in this Order in the affected area, including, but not limited to, the spigot outside the Pony Express Store. This public notice shall be given in one or more of the following forms of delivery: (1) Appropriate broadcast media (such as radio and television); (2) Posting of the notice in conspicuous locations throughout the area served by the System; (3) Hand delivery of the notice to persons served by the System; or (4) Another delivery method approved in writing by EPA. The notice shall be repeated at least once every 3 months by mail, hand delivery or posting as long as the situation exists. Respondent shall comply with any additional public notification requirements that may be established by EPA. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future National Primary Drinking Water

Regulation (NPDWR) violation. Respondent shall submit a copy of the public notice to EPA within 24 hours of completion of the public notice.

The public notice shall include the following information:

- a. All requirements as specified in 40 C.F.R. § 141.205 including:
 - i. A description of the situation, including contaminant of concern and the contaminant level;
 - ii. When the situation occurred;
 - iii. Any potential adverse health effects from the situation;
 - iv. The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;
 - v. Whether alternative water supplies should be used;
 - vi. What actions consumers should take, including when they should seek medical help, if known;
 - v. What the System is doing to correct the situation;
 - vi. When the System expects to return to compliance or resolve the situation;
 - vii. The name, business address, and phone number of the System owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

viii. A statement to encourage the notice recipients to distribute the public notice to other persons served.

b. Respondent shall include the following mandatory health effects

language in the public notice as specified in 40 C.F.R. §

141.205(d)(1), appendix B to subpart Q of part 141:

Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.

Fecal coliforms and E. Coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

UNTIL FURTHER NOTIFIED, ALL WATER USED FOR DRINKING, BRUSHING TEETH, COOKING, MAKING ICE, WASHING DISHES, OR USED FOR HUMAN CONSUMPTION, ETC., SHALL BE BOILED FOR AT LEAST ONE MINUTE, AT A ROLLING BOIL, BEFORE USE. ALL STORED WATER, DRINK OR ICE MADE RECENTLY FROM THIS SUPPLY SHALL BE DISCARDED.

F. REPORTING REQUIREMENTS

1. Unless otherwise specified, all reports and notifications herein required shall be submitted to:

8P-W-MS
US Environmental Protection Agency
999 18th Street Suite 300
Denver, Colorado 80202-2466
Telephone Number: (303) 312-6269 (Gary Carlson)
Facsimile Number: (303) 312-6131

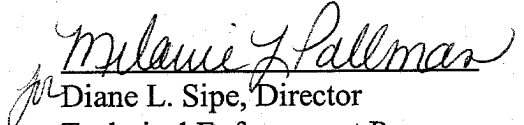
V. GENERAL PROVISIONS

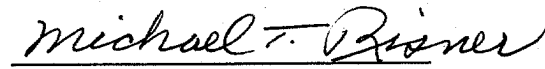
- A. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
- B. Violation of any term of this Order instituted under section 1431(a) of the Act, 42 U.S.C. § 300i(a), may subject the Respondent to a civil penalty of not to exceed \$16,500 for each day in which such violation occurs or failure to comply continues, assessed by an appropriate U.S. District Court under section 1431(b) of the Act, 42 U.S.C. § 300i(b).
- C. Violation of any requirement of the SDWA or its implementing regulations instituted under section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under section 1414(b) of the Act, 42 U.S.C. §

300g-3(b).

D. The effective date of this Order shall be the date of issuance.

Issued this 13th day of September, 2005.


Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice


Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice